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Dominick X. Presto  
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June 10, 1983

Honorable Reginald Stanton  
Superior Court of New Jersey  
228 Hall of Records  
Newark, N.J. 07102

Re: State of New Jersey, Department of Environmental Protection  
vs. Scientific Chemical Processing, Inc., et al.  
Docket Number: L-1852-83E

Dear Judge Stanton:

I have received the proposed order from Mr. Reger and I would like to enter my objections to certain provisions contained therein. I strongly object to the inclusion in Paragraph 7 of the word "personal" when the Order speaks about the lien which is to be imposed on defendants property. I believe your Honor's decision only affected the real property of the defendants. I am sure the Court is aware of the potential problems which would occur if a lien on the defendants' personal property was ordered. All kinds of questions as to creditor priority would develope in the event that such a lien were imposed. I do not believe the Court intended for such a result.

I have received Mr. Egans letter of June 7, 1983 and I would join in with him in his objections which relate to the form of the Order submitted to the Court.

I further understand that this Order may have been signed before the expiration of the five (5) day period permitted in the Rule and if such is the case, I would request that the Court consider the matters set forth herein.

Very truly yours,

PRESTO & BARBIRE

By *Paul S. Barbire Esq.*

Paul S. Barbire

PSB/am

cc: Harriet Sims Harvey, Esq.  
Edward J. Egan, Esq.✓  
Herbert G. Case  
Leif R. Sigmund

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June 7, 1983

Honorable Reginald Stanton  
Superior Court of New Jersey  
228 Hall of Records  
Newark, New Jersey 07102

Re: State of New Jersey, Department of Environmental Protection v.  
Scientific Chemical Processing, Inc. et al.  
Docket No. L-1852-83E

Dear Judge Stanton:

I have received on Monday, June 6, 1983, a copy of a proposed order Mr. Reger was submitting following your ruling on May 27, 1983. The cover letter was dated June 1, 1983, but the meter stamp on the envelope indicated my copy was not mailed until June 3, 1983. I called your office yesterday afternoon to alert your office to the fact that I objected to the proposed order and would be submitting my objections in writing. I was most distressed to learn from Mr. Thompson that the order had been signed last Friday, June 3rd.

While I can appreciate the Court's concern about matters of environmental concern and a need to act in a prudent but prompt manner, I do not feel the rights of the defendants should be clouded by either the broad gloss of imminent hazards portrayed but as yet unsubstantiated by the DEP or by the Court's experience in other environmental matters. Respectfully, I feel that the defendants have not been accorded their rights under the Rules of Court since counsel have not had an opportunity to object to the form of the order as provided in R.4:42-1(b). I hope the order will be modified in light of these comments of mine and comments which the other defense attorneys may offer to the Court.

I object to the recitation of findings contained on pages 2 and 3 which purport to represent your rulings on May 27th. The transcript contains your findings in full, and that should be sufficient. To attempt to summarize the findings in the proposed order is inappropriate. Indeed, I do not feel that the summary adequately reflects the rulings made. R.4:42-1(a) addresses this matter in the first sentence by indicating that recitals of what has occurred before are not appropriate. I feel the recitals in the proposed order fall into that category. In addition, I do not believe you used the terms "perilous and dangerous" contained in the first paragraph on page 3 or that you relied upon the affidavits submitted with the Complaint. Rather I believe you relied upon the findings in the Administrative Law Judge's report and his recommended decision.

Honorable Reginald Stanton

June 7, 1983

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Paragraph 2 which commences on page 3 is not accurate to the extent that the language conveys the impression that my clients' liability for the site was determined in the Administrative Court proceeding. My clients were not parties to the action nor does it appear that the determination fixes the conditions as of the date of the Complaint. I believe paragraph 1 accurately reflects your holding and thus paragraph 2 is superfluous.

I also take strong exception to the inclusion in that paragraph and in the 4th unnumbered paragraph on page 3 of the statement that you relied upon plaintiff's Brief. Plaintiff's Brief was not submitted with the Complaint and was received by me on May 26, 1983, only three days before the return date of the Order to Show Cause. I do not think it appropriate for the Court to rely upon a Brief without opposing counsel having an adequate chance to respond. Three days does not in my opinion afford counsel fair opportunity to respond. I do not recall your referring to the Brief in your ruling and hence see no need to reference it in the order.

Finally, paragraph 4 on page 5 does not correspond to my recollection of your holding. I recall your Honor placing a lien on only the real property of the defendants except for Mahan, not upon the personal property as well. To place a lien upon the personal property of an individual or a corporation would be burdensome and not warranted.

I would appreciate hearing from your office as to your intentions in regard to these objections and those that may be submitted by other counsel.

Yours truly,

Edward J. Egan

EJE/rq

cc: David W. Reger

Deputy Attorney General

Paul S. Barbire, Esq.

Harriet Sims Harvey, Esq.

Mr. Herbert Case

Mr. Leif R. Sigmond